



**U.S. Department of Justice**

*United States Attorney  
Eastern District of New York*

JDL:UAD  
F.#2011R000935\NY-NYE-635-H

271 Cadman Plaza East  
Brooklyn, New York 11201

July 24, 2012

**By Hand Delivery and ECF**

The Honorable John Gleeson  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: United States v. James Rosemond  
Criminal Docket No. 11-424 (S-4)(JG)

Dear Judge Gleeson:

The government respectfully submits this letter to object to the defendant's request to adjourn sentencing.

By letter dated July 11, 2012, the defendant moves to adjourn his October 19, 2012 sentencing until the conclusion of the criminal case pending against him in the Southern District of New York ("SDNY"). In support of his request, the defendant advances two arguments: (1) that he will be prejudiced by his sentencing should potential jurors in the SDNY learn that he is already serving a life sentence and (2) that he cannot participate in a presentence interview with the Probation Department when there are unresolved criminal charges pending against him.

As the Court is no doubt aware, the defendant's instant criminal case received significant media coverage, particularly during his May 2011 trial before Your Honor. As such, the fact of his conviction and that he now faces a life sentence is already public information. The government fails to see how imposition of the defendant's mandatory life sentence creates any prejudice to the defendant not already created by publicly available information surrounding his case. To the extent that potential jurors in the SDNY may be "tainted" by their knowledge of his criminality, the defendant may inquire about and address these issues during voir dire if permitted to do so by Judge Colleen McMahon in the SDNY.

Additionally, the defendant's reluctance to participate in his presentence investigation interview with the Probation Department does not form an appropriate basis for adjourning sentencing. As an initial matter, the defendant has already made extensive admissions regarding his crimes in proffer sessions with the government, including admissions concerning the charges underlying the SDNY indictment. Moreover, should the defendant participate in his presentence investigation interview, he is not required to speak about his criminal activity. In fact, in the government's experience, defendants are typically counseled by their attorneys not to speak to the Probation Department about their crimes. As such, that the Probation Department would seek to interview the defendant in advance of his sentencing does not form a basis for delay.<sup>1</sup>

In short, there is no legal or factual basis supporting the defendant's request to adjourn his sentencing. Given that the criminal case in the SDNY has been pending for over two years – since May 2010 – and still has not been scheduled for trial, adjourning the defendant's sentencing until the conclusion of the SDNY case would amount to an indefinite delay. Such a delay would undermine the government's interest as well as the societal interest in achieving finality in criminal cases. For these reasons, the government respectfully requests that the

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<sup>1</sup> Additionally, the government is aware of no legal authority that confers an absolute right on a defendant to be interviewed in preparation for sentencing. See United States v. Workman, 110 F.3d 915, 919 (declining to rule on the issue, but expressing skepticism that such a right exists); United States v. Martinez, No. 08-14926, 2009 WL 839093, at \* 1 (11th Cir. 2009) ("the parties have not cited, and research does not reveal, any case law from the Supreme Court, this Court, or other circuits supporting the proposition that a defendant has an absolute right to be interviewed by a probation officer prior to completion of the PSI").

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defendant's sentencing, currently scheduled for October 19, 2012, proceed as scheduled.

Respectfully submitted,

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United States Attorney  
Eastern District of New York

By: \_\_\_\_\_ /s/  
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cc: Gerald Shargel (via ECF)  
Clerk of Court (JG)(via ECF)